

25 April 1983

NOTE FOR:
Associate General Counsel for
Logistics and Procurement Law

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Logistics and Procurement Law

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Logistics and Procurement Law

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FROM:
Legislation Division

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SUBJECT: S. 338

Attached is a piece of correspondence relative to S. 338 in which you might be interested. The concern of Senator Cohen's to which reference is made is his concern about abuse of classified procurement exception.

I hope to hear from you soon on your review of S. 338.

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Attachment

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United States Senate

SELECT COMMITTEE ON INTELLIGENCE
WASHINGTON, D.C. 20510

Paul

83-1244 w/

83-1243

April 13, 1983

Ms. Susan Collins
Committee on Governmental Affairs
Subcommittee on Oversight of
Government Management
Washington, D.C. 20510

Dear Susan:

Thank you for the memo regarding your subcommittee action on S. 338. I appreciate your addressing the concerns of the Intelligence Community about the notice exception for classified procurements. The materials you sent me have been provided to [redacted] who is handling the matter for the Community.

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Please let me know if there are any changes, particularly if Sen. Cohen decides to introduce further amendments in this matter.

Sincerely,

Victoria Toensing
Victoria Toensing
Chief Counsel

SECRET

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

Office of General Counsel

18 APR 1983
OGC 83-03151

Victoria Toensing
Chief Counsel
Senate Select Committee on
Intelligence
Washington, D.C. 20510

Dear Vicki:

Thank you for the information on S. 338. As I said in our phone conversation, the carrying over by Governmental Affairs from S. 272/H.R. 1043 to S. 338 of our language on the procurement notice problem is most helpful and most appreciated. Again, our thanks to you and Jim Dykstra and you may wish to thank Susan for us also.

I note the statement that Senator Cohen is considering amendments to guard against abuse. What, if anything, do you suggest we do?

We are currently reviewing the remainder of S. 338 to see if there are any problems. I will keep you informed.

Thanks again for the information and assistance.



Legislation Division

(OGC:PS:maw)

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11 April 1983
OGC 83-02989

MEMORANDUM FOR:

[redacted]
Associate General Counsel for
Logistics and Procurement Law

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[redacted]
Logistics and Procurement Law Division

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[redacted]
Logistics and Procurement Law Division

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FROM:

[redacted]
Legislation Division

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SUBJECT: Senate Report 98-50

Attached for your review and comment are two copies of the recently-printed Senate Report No. 98-50, the report of the Senate Governmental Affairs Committee on S. 338, the "Competition in Contracting Act of 1983". You will recall we have discussed this bill previously.

The arguments we made in regard to S. 272/H.R. 1043 appear to have carried over into S. 338: note that in Section 263 of the bill as reported out by the Committee (p. 50 of the report), subsection (c)(1) provides that advance procurement notice is not required if "the notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security".

Note, however, that Section 253 (3)(6) of the bill, in describing the circumstances when noncompetitive procurements are appropriate, uses the prior version of this language which included the phrase "to more than one source" a phrase to which we had objected in S. 272/H.R. 1043. Before we conclude, however, that this is unacceptable, you should review the competitive system established by S. 338. It may be that our "limited source" offerings for classified contracts would fit within it.

Keep in mind that S. 338 will now go to the Senate Armed Services Committee. That Committee must report out the bill no later than 30 June. Thus, I would appreciate your prompt comments so that if there are any problems, we can begin the work necessary to have them resolved.

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Attachment
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